

INCOMING TELEGRAM

DEPARTMENT OF STATE A/CDC/MRC
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FROM: Tokyo

TO: Secretary of State

NO: 2816, February 27, 9 p.m.

PRIORITY

Department telegram 2057, February 20 and Embassy despatch 1632, February 17.

FCN Treaty.

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Embassy believes Japanese Government may accept Department suggestion protocol paragraph 3 concerning right withhold national treatment on basis United States state laws. As reported Embassy despatch Japanese Government wishes exercise right withdraw investment privileges previously authorized or apply new limitation retroactively on such basis. Embassy of opinion retroactive action would undermine value investment. United States national who applies in good faith and was granted by Japanese Government screening authorities greater participation in Japanese enterprise than his own State residence permits aliens. Believe therefore that Japanese Government should determine in each case at time of screening extent to which willing permit United States investment in reserved field without having right later arbitrarily reduce approved degree participation.

Embassy assumes Department protocol suggestion will constitute exception to paragraph 4 Article VII since most favored nation treatment might be regarded as ceiling applicable United States nationals while residents some States would be accorded less favorable treatment. If following Embassy modification Department's suggestion acceptable, mention of banking activities unnecessary a revision no (repeat no) longer related to second sentence regarding application new restrictions.

Embassy requests authorization initially offer Japanese following sentence protocol paragraph 3: "With reference first sentence that paragraph, and notwithstanding provisions paragraph 4, Japanese shall be entitled to withhold national treatment et cetera". Remainder as in Department telegram.

MURPHY

JAK:AA-15

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